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HIGH TECH SANCTIONS ON CHINA

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RELEASED

Missile Technology

Sanctions: Pursuant to amendments to the Arms Export Control Act and the Export Administration Act of 1979, two-year sanctions imposed June 25, 1991 on China Great Wall Industry Corporation and China Precision Machinery Import-Export Corporation were as follows: No licenses may be issued for exports to the two entities of either munitions or dual use items covered by the MTCR Annex. Additional sanctions must be imposed if China engages in further sanctionable activity. Pursuant to the Helms amendment, any further sanctions will generally have to be imposed on all missile, military aircraft, electronics and aerospace-related activities of the Chinese government.

Waiver: The President, the Secretary of State, or the Under Secretary of State for International Security Affairs may waive the sanctions if he determines that to do so is essential to U.S. national security. He must notify Congress and submit a report "fully articulating the rationale and circumstances" behind the waiver at least 20 working days before it is issued.

High Speed Computers

Sanction: On June 16, 1991, the President announced that exports to China of computers exceeding certain performance thresholds (41 Mtops) would be licensed "only after extensive review to ensure that the proposed sale poses no threat to national security." Pursuant to this decision, a presumption of denial was put in place for computers above the stated threshold.

Waiver: Since this sanction was imposed as a discretionary matter by the President, no waiver is necessary to lift it. However, since the President is currently on record with the statement quoted above, any change in this policy without a public announcement could evoke criticism from industry or Congress.

Satellites and Related Components and Technology

(1) Foreign Relations Authorization Act, FY 1990 - 1991

Sanction: Section 902(a)(5) prohibits "exports of any satellite of U.S. origin that is intended for launch from a launch vehicle owned by the People's Republic of China."

Waiver: The President may waive this provision under Section 902(b) if he determines and reports to Congress (1) that to do so is in the U.S. national interest or (2) that

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China has made progress in specified areas of political reform. The provision was waived in April 1991 to allow the export of the AUSSAT satellites for launch from China in 1992. The waiver authority has not been delegated.

(2) Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1992

Sanction: Section 608(a) prohibits reinstatement or approval of any export license applications (including TAAs and other related defense services) "for the launch of U.S.-built satellites on Chinese-built launch vehicles."

Waiver: The President may waive the prohibition "in the national interest" or upon certification by USTR that, with regard to the export at issue, China is in full compliance with the U.S.-PRC Commercial Launch Services Agreement.

Note: The current House version of the pending EAA reauthorization includes a tougher version of this provision which prohibits exports (as opposed to license approvals) of such satellites, and allows the President to waive the provision only if the USTR certification is made (i.e., there is no national interest waiver). However, this provision may yet be amended, or the bill may be vetoed. *The Senate version likely prohibits such exports, although "improved" in conference,*

(3) Presidential Sanctions

On June 16, 1991, the President announced that he would not "approve any further export licenses for commercial satellite launches." However, he also stated explicitly that his action did not affect the Freja or AUSSAT satellite launches. Thus, the President is currently on record with a statement that precludes exercising his discretion to waive the prohibitions described above with respect to any satellite launches other than Freja or AUSSAT. As with high speed computers, therefore, any change in this policy without a public announcement could evoke criticism from industry or Congress.

Sanctions Not Included Among the Conditions for MTCR Adherence:

(1) Nuclear Cooperation

Sanction: Section 902(a)(5) of the Foreign Relations Authorization Act for FY 1990 and 1991 prohibits virtually all nuclear cooperation with China.

Waiver: The President may only waive this provision if he (a) certifies that China is not and will not assist any

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nonnuclear weapons state in acquiring nuclear explosive devices, materials or components, (b) makes certifications required to implement the 1985 U.S.-PRC Agreement for Nuclear Cooperation, and (c) determines and reports to Congress (1) that to waive the provision is in the U.S. national interest or (2) that China has made progress in specified areas of political reform. The provision was waived in April 1991 to allow for munitions exports related to the Freja and AUSSAT satellites. The waiver authority has not been delegated.

(2) Munitions, Crime Control, Liberalization of Export Controls, Trade and Development Program, OPIC

Sanctions: Under Section 902(a) of the Foreign Relations Authorization Act for FY 1990 and 1991, the following sanctions were also imposed: (a) licensing is suspended for items on the USML and crime control and detection equipment on the dual-use Commodity Control List; (b) the Trade and Development and OPIC programs are suspended; and (c) further China-specific liberalization of export controls is frozen.

Waiver: The President may waive these prohibitions if he determines and reports to Congress (1) that to do so is in the U.S. national interest or (2) that China has made progress in specified areas of political reform. The provision was waived in April 1991 to allow for munitions exports related to the Freja and AUSSAT satellites. The waiver authority has not been delegated.

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